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26 CFR Ch. I (4-1-13 Edition)

Act) shall make a return of the tax imposed by section 3321(b) on the rail wages paid to him (as determined under section 3321(b)(2)) during each calendar quarter within a taxable period. Form CT-2 is the form prescribed for use in making the return. One original and a duplicate of each return on Form CT-2 shall be filed with the director of the service center as designated in the instructions to Form CT-2. Rail wages taxable under section 3321(b) shall be reported in the return required under this section for the return period in which they are actually paid unless they were constructively paid in a prior return period, in which case such wages shall be reported only in the return for such prior period.

(b) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see § 31.6071(a)-1A and § 31.6091-1, respectively.

[T.D. 8105, 51 FR 40168, Nov. 5, 1986. Redesignated and amended at T.D. 8227, 53 FR 34736, Sept. 8, 1988]

§ 31.6011(a)-4 Returns of income tax withheld.

(a) *Withheld from wages*—(1) *In general.* Except as otherwise provided in paragraphs (a)(2), (a)(3), (a)(4), and (b) of this section, and in § 31.6011(a)-5, every person required to make a return of income tax withheld from wages pursuant to section 3402 shall make a return for the first calendar quarter in which the person is required to deduct and withhold such tax and for each subsequent calendar quarter, whether or not wages are paid therein, until the person has filed a final return in accordance with § 31.6011(a)-6. Except as otherwise provided in paragraphs (a)(2), (a)(3), (a)(4), and (b) of this section, and in § 31.6011(a)-8, Form 941, “Employer’s QUARTERLY Federal Tax Return,” is the form prescribed for making the return required under this paragraph (a)(1).

(2) *Wages paid for domestic service.* Schedule H (Form 1040), “Household Employment Taxes,” is the form prescribed for making the return required under paragraph (a)(1) of this section with respect to income tax withheld, pursuant to an agreement under section 3402(p), from wages paid for domestic service as defined in section 3510.

Schedule H (Form 1040) is generally filed as an attachment to an income tax return; however, if the employer does not otherwise have an obligation to file an income tax return, Schedule H (Form 1040) may be filed as a separate return. The preceding sentence shall not apply in the case of an employer who has chosen under § 31.6011(a)-1(a)(3) to use Form 941, “Employer’s QUARTERLY Federal Tax Return,” Form 943, “Employer’s Annual Tax Return for Agricultural Employees,” or Form 944, “Employer’s ANNUAL Federal Tax Return,” as the return with respect to such payments for purposes of the Federal Insurance Contributions Act. For the requirements relating for Schedule H (Form 1040) with respect to qualified State individual income taxes, see § 301.6361-1(d)(3)(iv).

(3) *Wages paid for agricultural labor.* Every person shall make a return of income tax withheld, pursuant to an agreement under section 3402(p), from wages paid for agricultural labor for the first calendar year in which he is required (by reason of such agreement) to deduct and withhold such tax and for each subsequent calendar year (whether or not wages for agricultural labor are paid therein) until he has filed a final return in accordance with § 31.6011(a)-6. Form 943 is the form prescribed for making the return required under this subparagraph. For the requirements relating to Form 943 with respect to qualified State individual income taxes, see paragraph (d)(3)(iv) of § 301.6361-1.

(4) *Employers in the Employers’ Annual Federal Tax Program (Form 944)*—(i) *In general.* Employers notified of their qualification for the Employers’ Annual Federal Tax Program (Form 944) are required to file Form 944, “Employer’s ANNUAL Federal Tax Return,” instead of Form 941 to make a return of income tax withheld from wages pursuant to section 3402. Upon proper request by the employer, the IRS will notify employers in writing of their qualification for the Employers’ Annual Federal Tax Program (Form 944). The IRS will notify employers when they no longer qualify for the Employers’ Annual Federal Tax Program (Form 944) and must file Forms

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941 instead. Qualified employers are those with an estimated annual employment tax liability (that is, social security, Medicare, and withheld federal income taxes) of \$1,000 or less for the entire calendar year, except employers required under—

(A) Paragraph (a)(3) of this section to make a return on Form 943, “Employer’s Annual Federal Tax Return for Agricultural Employees”; or

(B) Paragraph (a)(2) of this section to make a return on Schedule H (Form 1040), “Household Employment Taxes.”

(ii) *Request to opt in or opt out of the Employers’ Annual Federal Tax Program (Form 944).* The IRS established procedures in Revenue Procedure 2009-51 published in the Internal Revenue Bulletin for employers to follow to request to participate in the Employers’ Annual Federal Tax Program (Form 944) (to opt in) and to request to be removed from the Employers’ Annual Federal Tax Program (Form 944) after becoming a participant in order to file Forms 941 instead (to opt out). The IRS will notify employers that their filing requirements have changed to Form 944 or Forms 941. Employers must follow the procedures in Revenue Procedure 2009-51 or its successor to opt in or opt out of the Employers’ Annual Federal Tax Program (Form 944).

(b) *Withheld from nonpayroll payments.* Every person required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with §31.6011(a)-6. Every person not required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold such tax and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with §31.6011(a)-6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are—

(1) Certain gambling winnings subject to withholding under section 3402(q);

(2) Retirement pay for services in the Armed Forces of the United States subject to withholding under section 3402;

(3) Certain annuities as described in section 3402(o)(1)(B);

(4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and

(5) Reportable payments subject to backup withholding under section 3406.

(c) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see §§31.6071(a)-1 and 31.6091-1, respectively.

(d) *Effective/applicability dates.* Paragraphs (a)(1) and (a)(4)(i) of this section apply to taxable years beginning on or after December 30, 2008. Paragraph (a)(4)(ii) of this section applies to taxable years beginning on or after January 1, 2010. The rules of paragraph (a)(1) of this section that apply to taxable years beginning before December 30, 2008, are contained in §31.6011(a)-4 as in effect prior to December 30, 2008. The rules of paragraph (a)(4)(ii) of this section that apply to taxable years beginning before January 1, 2010, but on or after December 30, 2008, are contained in §31.6011(a)-4T as in effect on or after December 30, 2008. The rules of paragraph (a)(4) of this section that apply to taxable years beginning before December 30, 2008, are contained in §31.6011(a)-4T as in effect prior to December 30, 2008.

(86 Stat. 944, 26 U.S.C. 6364; and 68A Stat. 917, 26 U.S.C. 7805; 68A Stat. 747, 26 U.S.C. 6051)

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 7096, 36 FR 5217, Mar. 18, 1971; T.D. 7200, 37 FR 16544, Aug. 16, 1972; T.D. 7577, 43 FR 59359, Dec. 20, 1978; T.D. 7580, 43 FR 60159, Dec. 26, 1978; T.D. 8504, 58 FR 68035, Dec. 23, 1993; T.D. 8624, 60 FR 53510, Oct. 16, 1995; T.D. 8672, 61 FR 27008, May 30, 1996; T.D. 9239, 71 FR 14, Jan. 3, 2006; T.D. 9405, 73 FR 37375, July 1, 2008; T.D. 9440, 73 FR 79358, Dec. 29, 2008; T.D. 9524, 76 FR 26602, May 9, 2011; T.D. 9566, 76 FR 77675, Dec. 14, 2011; T.D. 9586, 77 FR 24611, Apr. 25, 2012]

§31.6011(a)-5 Monthly returns.

(a) *In general*—(1) *Requirement.* The provisions of this section are applicable in respect of the taxes reportable on returns required pursuant to